

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

<b>AMERICAN CIVIL LIBERTIES UNION,</b>	)	
et al.,	)	
	)	
<b>Plaintiffs,</b>	)	
	)	
v.	)	Civil Action No. 98-5591
	)	
<b>ALBERTO R. GONZALES,</b> in his official	)	
capacity as Attorney General of the United	)	
States,	)	
	)	
<b>Defendant.</b>	)	

**DEFENDANT'S MOTION TO EXTEND THE DEADLINE FOR  
THE EXCHANGE OF PRINCIPAL EXPERT REPORTS**

Pursuant to Local Rule 7.1, defendant, the Attorney General of the United States, by and through his undersigned attorneys, moves this Court for a three-business-day extension of time, from May 3, 2006, to May 8, 2006, of the deadline for the parties to exchange principal expert reports.<sup>1</sup> No other deadlines established in this Court's case management order need to be altered. Counsel for defendant consulted with counsel for plaintiffs regarding this motion on April 24, 2006. On April 25, 2006, counsel for plaintiffs responded that they would oppose this motion; counsel for the defendants understands plaintiffs' objection to be that the case management order has been extended several times previously. Despite plaintiffs' objection, good cause exists for defendant's motion, as will be explained below. A proposed order is attached to this motion for the Court's convenience.

---

<sup>1</sup> Defendant respectfully requests the Court to expedite its consideration of this motion, and to direct the plaintiffs to file a response to this motion, if any, no later than April 27, 2006.

-2-

### **BACKGROUND**

Defendant's experts are preparing reports that will address, *inter alia*, a study of the effectiveness of filtering software against samples of web sites. For the purpose of this study, defendant subpoenaed several search engine operators, including Google Inc. ("Google"), for samples of uniform resource locators (URLs) of websites found in their indices, and for samples of queries entered on to their search engines; from those queries, defendant has derived URLs returned in response to those queries as a further set of samples for study. Google did not comply with the subpoena. Defendant filed a motion to compel Google to comply with the subpoena on January 18, 2006. The United States District Court for the Northern District of California held a hearing on the motion on March 14, 2006, and issued an order on March 17, 2006, directing Google to produce a sample of URLs to defendant. Google produced that sample on March 31, 2006.

### **ARGUMENT**

Defendant's experts are working diligently to complete their study, and to prepare reports summarizing their conclusions and analysis. Despite the relatively recent production of the Google data, defendant's experts have expedited their review of that data in an attempt to complete that review within the current deadline for the exchange of principal reports. However, the experts will be unable to complete their analysis of the recently-produced data, and to complete their reports summarizing that analysis, within the current deadline. Only a brief extension of that deadline is necessary, however. An extension of three business days, to and including Monday, March 8, 2006, for the exchange of expert reports will permit defendant's experts to complete their reports, which will incorporate an analysis of the data recently received

-3-

from Google. No other dates established in this Court's case management order need to be altered.

Although not all of defendant's experts are preparing reports that are based on the Google data, it is appropriate to maintain a single date for the exchange of all reports, particularly given the brevity of the requested extension. Moreover, defendant is unaware whether plaintiffs plan to include an analysis of that data in any or all of their experts' reports. A short extension of three business days for the submission of all expert reports from both sides would avoid any prejudice to plaintiffs that might result from requiring them to submit some or all of their reports to defendant before defendant submits reports to them.

### **CONCLUSION**

For good cause shown, defendant respectfully requests this Court for an extension of three business days, from Wednesday, May 3, 2006, to Monday, May 8, 2006, of the deadline for the parties to exchange principal expert reports.

Dated: April 26, 2006

Respectfully submitted,

PATRICK L. MEEHAN  
United States Attorney  
RICHARD BERNSTEIN  
Assistant U.S. Attorney  
THEODORE HIRT  
Assistant Branch Director

/s/ Joel McElvain  
RAPHAEL O. GOMEZ, Senior Trial Counsel  
JOEL McELVAIN, Trial Attorney  
United States Department of Justice  
Civil Division, Federal Programs Branch  
20 Massachusetts Ave., NW, Room 7130  
Washington, D.C. 20001  
(202) 514-2988  
*Attorneys for Defendant*

CERTIFICATE OF SERVICE

I hereby certify that on April 26, 2006, I caused the foregoing Defendant's Motion to Extend the Deadline for the Exchange of Principal Expert Reports, with the attached proposed order, to be filed electronically and therefore to be available for viewing and downloading from the Electronic Case Filing system. The electronic filing of these documents constituted service of these documents on the following:

Aden Fine, Esquire  
American Civil Liberties Union Foundation  
125 Broad Street  
New York, NY 10004

/s/ Joel McElvain  
JOEL McELVAIN  
*Attorney*